

SUBJECT: Request for adoption of FH-18-09: fisheries housekeeping rule revisions

FOR: SEPTEMBER, 2009 BOARD MEETING

TO BE PRESENTED BY: Joseph Hennessy

SUMMARY:

The Department recommends that the minor "housekeeping" revisions to the Administrative Code proposed in FH-18-09 be adopted. These proposals were suggested by the Bureaus of Fisheries Management and Law Enforcement to address fisheries management and law enforcement issues related to management of recreational fishing on Wisconsin's outlying, inland and boundary waters. The proposals were developed with input from the Bureau of Legal Services, and are limited to clarifications of existing code or changes to pieces of code which do not accurately reflect the intent of rules previously adopted by the Natural Resources Board. Fisheries-related housekeeping rule changes to Administrative Code last occurred in 2004.

RECOMMENDATION: Adopt FH-18-09: fisheries housekeeping rule revisions

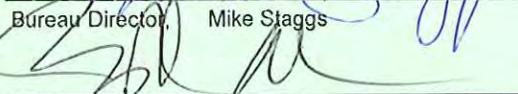
LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

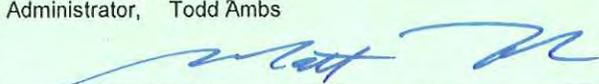
APPROVED:


 Bureau Director, Mike Staggs

8-24-2009
 Date
8/26/09


 Administrator, Todd Ambros

Date
8-27-09


 Secretary, Matt Frank

Date

- cc: Laurie J. Ross - AD/8
- Mike Staggs, FM/4
- Mike Lutz, LS/8
- Tim Andryk, LS/8
- Pete Flaherty, LS/8

- Randy Stark, LE/8
- Tom Van Haren, LE/8
- Kurt Thiede, AD/8
- Paul Neumann, MB/8
- Diane Brookbank, CS/1

- FM Board (8)
- GLIFWC, Tribal Chairpersons (13)
- IA, MI, MN DNR (3)
- Conservation Congress Exec. Comm. (3)

DATE: August 17, 2009

TO: Natural Resources Board

FROM: Matt Frank 

SUBJECT: Request for adoption of FH-18-09: fisheries housekeeping rule revisions

BACKGROUND

The Department recommends that the minor “housekeeping” revisions to the Administrative Code proposed in FH-18-09 be adopted. These proposals were suggested by the Bureaus of Fisheries Management and Law Enforcement to address fisheries management and law enforcement issues related to management of recreational fishing on Wisconsin’s outlying, inland and boundary waters. The proposals were developed with input from the Bureau of Legal Services, and are limited to clarifications of existing code or changes to pieces of code which do not accurately reflect the intent of rules previously adopted by the Natural Resources Board. Fisheries-related housekeeping of Administrative Codes last occurred in 2004.

SUMMARY OF THE RULE

The attached rule contains the following proposed modifications to Administrative Code:

1. Rules that clarify that turtle traps may not be set within 200 feet of any fishway, lock, or dam, and that a person may not use hook-and-line, setlines, or bank poles for taking turtles in a manner, an area, or during a season in which fishing is prohibited.
2. A clarification that the possession limit for inland trout is 10 fish (of which no more than 5 may be a combined total of brown and rainbow trout), and is separate from the possession limit for Great lakes trout and salmon.
3. A clarification related to rules which prohibit tagging and releasing of fish by persons who do not hold a permit issued by the Department.
4. Modifications to code to resolve conflicts between code and statute related to fishing with a bow and arrow at night. The statute provides that the Department shall allow bowfishing at night wherever bowfishing is permitted during daylight hours.
5. Corrections to rules for harvest of flathead and channel catfish in Winnebago system waters. Code presently incorrectly lists a closed season for channel catfish in this system, and incorrectly states that 2, rather than 1, flathead catfish from Winnebago system waters may be possessed.
6. Clarification that dip netting for cisco and whitefish are permissible at any time of day in Keyes lake (Florence county), Trout and Palette lakes (Vilas county), and in all other waters not specifically listed in the county and statewide table in NR 20.20. The rule also clarifies that seining for smelt is permissible any time of day on Lake Superior.
7. Deletion of redundant, improperly placed code related to walleye harvest regulations for Enterprise lake (Langlade county).

8. Correction of an omission that occurred in the drafting of rules which extended the open season for muskellunge in waters south of Highway 10 from November 30 to December 31. The later season-ending date applies to Winnebago system waters.
9. Correction of the effective end date for bag limit adjustments made in the Wisconsin Ceded territory in response to tribal declarations and harvest. Code states March 1, the previous closing date of the open angling season, rather than the first Sunday in March, and language which resolves inconsistency in rules that apply to readjustments of bag limits after spring tribal harvest.
10. Clarification of license requirements for anglers fishing in the Wisconsin-Iowa boundary waters.
11. Correction of omissions made when rules governing the harvest of lake sturgeon from Wisconsin-Michigan boundary waters were adopted.

POLICY IMPACTS

The proposed rule will not result in major changes to existing policy.

PREVIOUS ACTION

The Board has not previously taken action on any of the proposed items.

HEARING SYNOPSIS

A public hearing was held Friday August 14, 2009. No members of the public appeared. One inquiry was made by the Wisconsin Bowfishing Association regarding content of the rule, for information only.

RESPONSE TO LEGISLATIVE CLEARINGHOUSE COMMENTS

All recommendations made in the attached Legislative Clearinghouse report have been incorporated in the final version of the rule.

IMPACTS ON THE PUBLIC

The proposed rules will have minimal impact on members of the public. As with any change in regulation, there will be a requirement for anglers to learn the new rules. The FM Bureau works to notify the public of new regulations via press releases, the Internet, and fishing regulations pamphlets.

ENVIRONMENTAL ASSESSMENT

This is a Type III action under Chapter NR 150, Wis. Adm. Code, therefore no EA is required.

FINAL REGULATORY FLEXIBILITY ANALYSIS

The proposed rules do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule.

Fiscal Estimate — 2009 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number FH-18-09

Subject
 FH-18-09: Fisheries housekeeping order

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

Increase Costs — May be possible to absorb within agency's budget.
 Yes No

Decrease Costs

Local: No Local Government Costs
 Indeterminate

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The Bureaus of Fisheries Management and Law Enforcement request authorization to hold public hearings on a number of non-substantive ("housekeeping") changes to rules related to recreational fishing in the inland and boundary waters of Wisconsin. These changes do not reflect changes in Department policy and are limited to clarifications of existing code or changes to pieces of code which do not accurately reflect rules previously adopted by the Natural Resources Board and reviewed by the Legislature, after appropriate public hearings.

None of the proposed changes have a fiscal impact.

Long-Range Fiscal Implications

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 05-21-09

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number FH-18-09

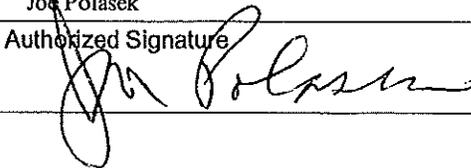
Subject

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(FTE)
State Operations — Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
Total State Costs by Category		\$	\$ -
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$	\$ -

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$	\$
Net Change in Revenues	\$	\$

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 05-21-09



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 09-051

AN ORDER to repeal NR 20.20 (35) (g) (3); to amend NR 20.03 (31) (a), 20.05 (14), 20.09 (2), 20.18 (1), 20.20 (19) (b), (64) (b) 1. b. and 2.b., and (73) (b) 3m. a., (c) 3. b., (g) 1m., and (L) 5. c., 20.36 (1) (intro.) and (2), 21.06 (1) (d), 22.03, 22.06 (1) (d), and 23.055 (1) (intro.) and (2); to renumber NR 23.02 (1); and to create NR 19.275 (3) (j) and (k), 21.13 (3) (i) and (j), 22.13 (3) (i) and (j), 23.02 (1), 23.05 (5) (c) 1m., and 23.12, relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

07-14-2009 RECEIVED BY LEGISLATIVE COUNCIL.

08-04-2009 REPORT SENT TO AGENCY.

RS:REL



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-051

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

In s. NR 20.20 (35) (g) (3), the notation “(3)” should be changed to “3.”.

5. Clarity, Grammar, Punctuation and Use of Plain Language

In s. NR 20.20 (73) (b) 3m. a., the semi-colon after “Continuous for channel catfish” should be changed to a period in order to be consistent with the format found elsewhere in s. NR 20.20. In the alternative, the word “First” could be replaced by the word “first.”

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, AMENDING, RENUMBERING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal 20.20 (35) (g) 3; to amend NR 20.03 (31) (a), 20.05 (14), 20.07 (5), 20.09 (2), 20.18 (1), 20.20 (19) (b), 20.20 (64) (b) 1. b. and 2. b. and (73) (b) 3m.a., (c) 3. b., (g) 1m. and (L) 5. c., 20.36 (1) (intro.) and (2), 21.06 (1) (d), 22.03, 22.06 (1) (d), and 23.055 (1)(intro.) and (2); to renumber NR 23.02 (1); and to create NR 19.275 (3) (j) and (k), 21.13 (3) (i) and (j), 22.13 (3) (i) and (j), 23.02 (1), 23.05 (c) 1m. and 23.12, relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

FH-18-09

Analysis Prepared by the Department of Natural Resources

1. Statutes Interpreted: In promulgating this rule, ss. 29.014(1), 29.039, 29.405 (3), 29.053, 29.531 and, 29.533, Stats., which authorize fishing, are interpreted as giving the department the authority to make changes to fishing regulations on inland and boundary waters of Wisconsin.

2. Statutory Authority: Sections 29.014 (1), 29.039, 29.041, 29.405 (3) and 227.11 (2) (a), Stats.

3. Explanation of Agency Authority to Promulgate the Proposed Rules Under the Statutory Authority: Sections 29.014(1), 29.039, 29.041 and 29.053, Stats., grant rule making authority to the department to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping; grant that the department may establish limitations relating to taking, possession, transportation, processing, and sale or offer for sale, of nongame species; and provide that the department may regulate hunting and fishing on and in all interstate boundary waters, and outlying waters. Section 227.11 (2) (a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

4. Related Rule or Statute: None.

5. Plain Language Rule Analysis:

Sections 1, 16, and 19 clarify that hoop nets may not be set within 200 feet of a fishway, lock, or dam, and that individuals may not use hook-and-line, setlines, or nets for taking turtles in a way or during any time when these methods are prohibited for fishing.

Section 2 clarifies that the possession limit for trout from inland waters is 10 fish, and is separate from the possession limit for Great Lakes trout and salmon.

Section 3 clarifies language governing the prohibition of tagging and releasing fish without a permit.

Sections 5, 15, and 18 resolve conflicts between state statute and administrative code regarding rules governing fishing with a bow and arrow. State statute provides that the department shall allow bowfishing at night wherever it is allowed during daylight hours in inland, outlying, and boundary waters.

Sections 6 and 10 correct administrative errors which occurred during the drafting of rules regarding harvest of catfish from Winnebago system waters. There is a total daily bag limit of one flathead catfish, rather than 2, allowed from Winnebago system waters, and there is no closed season for channel catfish in these waters.

Sections 7, 9, 11 and 13 clarify that dip netting and seining for cisco and whitefish are permissible at any time of day in Keyes lake (Florence county), Trout and Pallette lakes (Vilas county), and in all other waters not specifically listed in the county and statewide table in s. NR 20.20. Section 11 also clarifies that seining for smelt is permissible any time of day in Lake Superior.

Section 8 repeals code for walleye harvest regulations in Enterprise lake. The code being repealed was improperly placed in the section for rules related to lakes in Lincoln county. The proper code related to walleye regulations in Enterprise lake already exists under the section related to rules for lakes in Langlade county, where Enterprise lake is located.

Section 12 corrects an omission which occurred in the implementation of rules which extended the open season for muskellunge in waters south of Highway 10 from November 30 to December 31. The later season-ending date applies to Winnebago system waters.

Sections 14 and 23 correct the effective end date for bag limit adjustments made in the Wisconsin Ceded territory in response to tribal declarations and harvest, and correct inconsistency in language which applies to readjustments of bag limits after spring tribal harvest.

Section 17 clarifies license requirements for anglers fishing Wisconsin- Iowa boundary waters, and corrects the name of the boundary on the Wisconsin side of the Mississippi river.

Sections 4, 19, 20, 21 and 23 correct omissions made during the implementation of rules governing harvest of lake sturgeon from Wisconsin-Michigan boundary waters. Rules which were adopted for inland waters also applied to these boundary waters, but the appropriate changes in code were not made.

6. Summary of and Comparison with Existing or Proposed Federal Regulations: None known.

7. Comparison of Similar Rules in Adjacent States: Fisheries management rules are generally quite similar in the states surrounding Wisconsin. Each bordering state regulates fishing by the use of seasons, bag limits and size limits. Specific seasons, bag and size limits may differ for species across the surrounding states; however, the general principles are similar. Michigan, Minnesota, Iowa and Illinois all have statewide seasons, bag and size limits for fish species, along with special or experimental regulations on individual waters.

8. Summary of Factual Data and Analytical Methodologies Used in Support of the Rule: Rule proposals were developed by fisheries and law enforcement staff to address known errors and inconsistencies in Administrative Code, and are limited to minor "housekeeping" changes.

9. Analysis and Documentation Used in Support of the Agency's Determination Under s. 227.114, Stats., (Small Business Impact): The proposed rules do not apply directly to businesses, but to sport anglers.

10. Effect on Small Business, Including How the Rule Will Be Enforced: The proposed rules do not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The rules will be enforced by Conservation Wardens who have arrest powers and may use citations.

11. Agency contact person: Joseph Hennessy, FM/4 , 101 South Webster Street, Madison, WI 53707-7921; email: Joseph.Hennessy@wisconsin.gov; phone: 608.267.9427.

12. Place where comments are to be submitted and deadline for submission: The deadline for written comments is August 1, 2009. Comments may also be submitted electronically at the following internet site: <http://adminrules.wisconsin.gov>

SECTION 1. NR 19.275 (3) (j) and (k) are created to read:

NR 19.275 (3) (j) Place, set, or use a hoop net turtle trap within 200 feet of any fishway, lock, or dam.

(k) Place, set or use any hook and line, setline or bank pole for taking turtles in a manner or at any time during which these methods are not allowed for taking fish under ss. NR 20.06 and NR 20.12.

SECTION 2. NR 20.03 (31) (a) is amended to read:

NR 20.03 (31) (a) The possession limit for trout from inland waters is 10 of which no more than 5 may be a combined total of brown and rainbow trout.

SECTION 3. NR 20.05 (14) is amended to read:

NR 20.05 (14) Capture, tag, mark or attach any object and release wild fish unless issued a permit by the department pursuant to s. NR 19.11.

SECTION 4. NR 20.07 (5) is amended to read:

(5) Obtain more than one hook and line lake sturgeon tag per season except that one additional hook and line lake sturgeon tag may be obtained for Wisconsin-Michigan boundary waters per season.

SECTION 5. NR 20.09 (2) is amended to read:

NR 20.09 (2) Use, possess or control any bow, spear or similar device from sunset to sunrise while on the waters or on the banks or shores of any waters except that a bow and arrow may be possessed and used for spearing rough fish from sunset to sunrise during the open season for spearing rough fish on the following inland lakes at any time during the open season for spearing as specified in s. NR 20.20: Castle Rock and Petenwell flowages, Adams and Juneau counties; Round and Trade lakes, Burnett county; Lake Winnebago, Calumet county; Arbutus and Mead lakes, Clark county; Lake Wisconsin, Mud lake and Park lake, Columbia county; Lakes Monona, Mendota, Kegonsa, Koshkonong and Waubesa, Dane county; Beaver Dam lake, Chub lake, Fox lake, Mud lake, Horicon Marsh and Lake Sinnissippi, Dodge county; Eau Galle lake, Lake Menomin and Tainter lake, Dunn county; Lake Winnebago, Fond du Lac county; Big Green lake, Lake Puckaway and Little Green lake, Green Lake county; Ludden lake, Iowa county; Lake Koshkonong, Jefferson county; Lake Neshonoc, La Crosse county; Yellowstone lake, Lafayette county; Big Eau Pleine flowage, Lake DuBay and

~~McMillan reservoir, Marathon county; Buffalo lake and Grand River Marsh, Marquette county; Cedar and Wappogasset lakes, Polk county; Wisconsin River flowage and Lake DuBay, Portage county; Tichigan and Wind lakes, Racine county; Lake Koshkonong, Rock county; Potato lake, Rusk county; Cedar lake, St. Croix county; Lake Wisconsin, Sauk county; Shawano lake, Shawano county; Delavan, Como and Geneva lakes, Walworth county; Big Muskego lake and Lac LaBelle, Waukesha county; Lake Poygan, Waushara county; Lakes Butte des Morts, Poygan, Winnebago, Winneconne and Rush lake, Winnebago county.~~

SECTION 6. NR 20.18 (1) is amended to read:

(1) Catfish 25 in total, of which only 2 1 may be a flathead catfish from the Lake Winnebago system

SECTION 7. NR 20.20 (19) (b) is amended to read:

(19) FLORENCE (for species or waters not listed, see sub. (73))

(b) Cisco (lake herring), and whitefish, and their hybrids	1. Keyes lake	a. Hook and line	Continuous	25 pounds and one fish in total	None
		b. Dip netting <u>at any time</u>	Saturday nearest October 10 to January 15	3 in total	None

SECTION 8. NR 20.20 (35) (g) 3. is repealed.

SECTION 9. NR 20.20 (64) (b) 1. b. and 2. b. are amended to read:

(64) VILAS (for species or waters not listed, see sub. (73))

(b) Cisco (lake herring), and whitefish, and their hybrids	1. Trout lake	b. Dip netting <u>at any time</u> , seining with a seine not more than 75 feet in length, 6 feet in depth with mesh not to exceed 2 inch stretch measure.	Saturday nearest October 10 to February 1	10 in total	None
	2. Pallette lake	b. Dip netting <u>at any time</u> . Daily permit required (see s. NR 20.41)	Saturday nearest October 10 to February 1	25 pounds and 1 fish in total	None

SECTION 10. NR 20.20 (73) (b) 3m.a. is amended to read:

(b) Catfish	3m. Lake Winnebago system waters	a. Hook and line.	<u>Continuous for channel catfish</u> . First Saturday in May to September 30 <u>for flathead catfish</u> .	25 in total but only 1 may be a flathead catfish regardless of whether caught on hook and line, set or bank pole, or setline	None except for flathead catfish, which is 30 but the possession of flathead catfish from 36 to 42 is prohibited
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SECTION 11. NR 20.20 (73) (c) 3. b. is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(c) Cisco (lake herring), whitefish and their hybrids	3. All other waters not listed	b. Dip netting at <u>any time.</u>	Saturday nearest October 10 to February 1	25 pounds and one fish in total	None
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SECTION 12. NR 20.20 (73) (g) 1m. is amended to read:

(g) Muskellunge	1m. Lake Winnebago system waters	a. Hook and line	First Saturday in May to November <u>30 December 31</u>	1	50
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SECTION 13. NR 20.20 (73) (L) 5. c. is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(L) Rough fish	5. Lake Superior	c. Seining <u>at any time</u> for smelt only with seines not more than 75 feet in length and 6 feet in depth.	April 1 to May 25	None	None
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SECTION 14. NR 20.36 (1) (intro.) and (2) are amended to read:

NR 20.36 (1) ADJUSTMENT. (intro.) In order to prevent a total harvest of more than 35% of the adult walleye population or 27% of the adult muskellunge population, the secretary may lower the daily bag limit on walleye and increase the minimum size limit for muskellunge in specific waters in response to the harvest goals of the Chippewa bands for their spear, net or trap fisheries. The adjusted daily bag and size limits shall be in effect until ~~March 1~~ the first Sunday in March of the year following the tribal harvest. The safe harvest levels on individual waters shall be determined by the department.

(2) READJUSTMENT. ~~After May 30 of each year~~ After the third Monday in May, the secretary may raise the daily bag limit or reduce the minimum size limit to the limit specified as appropriate using the percent of the safe harvest level expected to be harvested through ~~March 1~~ the first Sunday in March of the next year as indicated in sub. (1). If actual harvest subsequently exceeds the expected harvest level, the daily bag limit for walleye may be reduced or the minimum size limit for muskellunge may be increased the following year to reflect actual harvest for that year and harvest goals of the Chippewa bands for the next year. If a new population estimate is made, the safe harvest level shall be changed accordingly and the secretary may adjust the daily bag limit or minimum size limit according to the percentage of the new safe harvest level that is expected to be harvested as indicated in sub. (1), where deemed necessary to remain consistent with the safety factors established under *Lac Courte Oreilles v. State of Wis.*, 707 F. Supp. 1034 (W. D. Wis. 1989). The readjusted daily bag and size limits shall be in effect until March 1 of the year following the tribal harvest.

SECTION 15. NR 21.06 (1) (d) is amended to read:

NR 21.06 (1) (d) Except in Lake Superior, its bays and tributaries, may take rough fish by means of spear, bow and arrow or dip nets and landing nets not to exceed 24 inches in diameter or square only from sunrise to sunset from the Saturday nearest April 21 to March 1, except that the use of dip nets and landing nets not to exceed 24 inches in diameter or square for the taking of rough fish in the St. Croix river downstream to the St. Croix Falls dam is permitted from the Saturday nearest May 15 to June 30 each year, and bow and arrow may be possessed and used for spearing rough fish from sunset to sunrise during the open season for spearing rough fish.

SECTION 16. NR 21.13 (3) (i) and (j) are created to read:

NR 21.13 (3) (i). Place, set or use a hoop net turtle trap within 200 feet of any fishway, lock or dam.

(j) Place, set or use any hook and line, setline or bank pole for taking turtles in a manner or at any time during which these methods are not allowed for taking fish under ss. NR 20.06 and NR 20.12.

SECTION 17. NR 22.03 is amended to read:

NR 22.03 ~~Any person holding a hook and line fishing license issued by either Iowa or Wisconsin~~ All residents of Wisconsin and Iowa holding a resident fishing license from their respective states or residents other than Wisconsin and Iowa holding an angling license or sport fishing license issued by either state may fish in waters of the Mississippi river lying between the Chicago, Milwaukee, and St. Paul and Pacific railroad tracks on the Iowa side of the river, and the Burlington Northern and Sante Fe railroad tracks lying on the Wisconsin side of the river, including all sloughs and backwaters, bays and newly extended water areas connected with the main channel of the Mississippi river by a channel which is navigable when the waters are approximately equal to the normal pool elevation as created by the U.S. army corps of engineers. This reciprocity applies only to hook and line fishing, spearing, dipnetting, and the taking of minnows and crayfish for such fishing. Spearing and dip netting are prohibited within 200 feet of any U.S. army corps of engineers locks and dams. Residents of either Wisconsin or Iowa may not fish in these boundary waters when the angler's state of residency license has been revoked.

SECTION 18. NR 22.06 (1) (d) is amended to read:

NR 22.06 (1) (d) Take rough fish by means of a spear, bow and arrow or landing net or dip nets not to exceed 24 inches in diameter or square from sunrise to sunset only, and bow and arrow may be possessed and used for spearing rough fish from sunset to sunrise during the open season for spearing rough fish.

SECTION 19. NR 22.13 (3) (i) and (j) are created to read:

NR 22.13 (3) (i) Place, set or use a hoop net turtle trap within 200 feet of any fishway, lock or dam.

(j) Place, set or use any hook and line, setline or bank pole for taking turtles in a manner or at any time during which these methods are not allowed for taking fish under ss. NR 20.06 and NR 20.12.

SECTION 20 NR 23.02 (1) is renumbered to be NR 23.02 (1m).

SECTION 21 NR 23.02 (1) is created to read:

NR 23.02 (1) "Attached" means, for the purpose of s. NR 23.12, affixed to the sturgeon immediately in front of the tail.

SECTION 22 NR 23.05 (5) (c) 1m. is created to read:

(c) Lake Sturgeon

1m. Menominee river, downstream from Hattie St. dam	First Saturday in September to September 30	0 (catch-and-release only)	Harvest prohibited
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SECTION 23 NR 23.055 (1) (intro.) and (2) are amended to read:

NR 23.055 (1) ADJUSTMENT. (intro.) In order to prevent a total harvest of more than 35% of the adult walleye population or 27% of the adult muskellunge population, the secretary may lower the daily bag limit on walleye and increase the minimum size limit for muskellunge in specific waters in response to the harvest goals of the Chippewa bands for their spear, net or trap fisheries. The adjusted daily bag and size limits shall be in effect until ~~March 1~~ the first Sunday in March of the year following the tribal harvest. The safe harvest levels on individual waters shall be determined by the department.

(2) READJUSTMENT. ~~If the Chippewa bands inform the department that they have completed harvesting and their goal has not been reached~~ After the third Monday in May, the secretary may raise the daily bag limit or reduce the minimum size limit to the limit specified as appropriate using the percent of the safe harvest level expected to be harvested as indicated in sub. (1). If a new population estimate is made, the safe harvest level shall be changed accordingly and the daily bag limit or minimum size limit shall be adjusted according to the percentage of the new safe harvest level that is expected to be harvested as indicated in sub. (1). The readjusted daily bag and size limits shall be in effect until ~~March 1~~ the first Sunday in March of the year following the tribal harvest.

SECTION 24 NR 23.12. is created to read:

NR 23.12 **Special sturgeon hook and line fishing restrictions.** No person who catches a lake sturgeon may do any of the following:

(1) Possess a lake sturgeon taken by hook and line and not immediately release it, unless a hook and line lake sturgeon tag belonging to the person who caught the lake sturgeon is immediately validated as

required by the department and attached to the lake sturgeon by immediately affixing the tag to the sturgeon in front of the fish's tail, and the tagged lake sturgeon is registered at a department lake sturgeon registration station by 6:00 p.m. on the day after it was taken.

Note: Hook and line lake sturgeon tags will be available at department service centers and regional offices each year prior to the open season. Department service centers may be located by viewing <http://www.dnr.wisconsin.gov>

(2) Remove the registration tag attached to the fish by the department until the carcass is prepared for final consumption. The hook and line lake sturgeon registration tag shall be retained by the person taking the lake sturgeon until the fish is consumed.

(3) Transport any lake sturgeon in or on any motor-driven vehicle from the time the lake sturgeon is taken to the time it is lawfully registered pursuant to sub. (1) unless the lake sturgeon is carried openly exposed and in a manner so that the lake sturgeon tag attached to the lake sturgeon cannot be handled or manipulated by any occupant of the vehicle.

(4) Transport any lake sturgeon in or on any boat from the time the lake sturgeon is taken to the time it is lawfully registered pursuant to sub. (1) unless the lake sturgeon is tagged and carried openly exposed.

SECTION 25 EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

SECTION 26 BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary

(SEAL)